

# CONTP CT

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0.19080

# **STATE OF UTAH CONTRACT**

Depart	ment of	810	810 UDOT, I		referred to as S	STATE and the following:	
Transp	ortation			_		•	
Age	ency Name Sund	Agency Code	Divisio	on .			
CONT	RACTOR Aha Snowl	bird Ski and Summe	nd Summer Resort		LEGAL STATUS OF CONTRACTOR		
n o n	020000	Name				Sole Proprietor	
P.O. Bo	ox 929000	Address			X	Non-Profit Corporation For-Profit Corporation	
Snowbi	rd	UT	840	92-9000		Partnership	
City	-	State		p Code		Government Agency	
	Jerry Giles		(801) 933-2020				
07	Contact Person	02.400.0	Phone N	umber	0.607.000.000		
	-0273421 deral ID#	23423G Vendor Number	<del></del>		96872000000		
Le	uciai ID#	vendoi ivuinoei			Commodity Code	e(s)	
ENERAL P	URPOSE OF CON'	TRACT:					
Emerge	ency Snow Removal	at the top of Little	Cottonwood Can	yon SR210 Pric	ing as ner attachm	nent C	
Emerge	- Show Removal	ut the top of Entire	Cotton wood Can		ing as per attacini	ion C	
OCUREMI	ENT: This contract i	s entered into as a i	result of a pre-ap	proved Sole Sour	rce.		
ole Source #		FY 2004		provou bolo bour		<del></del>	
			<u>·</u>				
ONTRACT	PERIOD: Effective	date October 1, 200	03 . Ter	rmination date Se	eptember 30, 2008	, unless terminated early or	
tended in ac	cordance with the te	erms of this contract	t. Renewal Optio	ns (if any)			
	COSTS: CONTRAC	CTOR will be paid a	_		for costs authorize	ed by this contract	
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- AUTHORITY: Provisions of this contract are pursuant to the authority set forth in 63-56, <u>Utah Code Annotated</u>, 1953, as amended, Utah State Procurement Rules (<u>Utah Administrative Code</u> Section R33), and related statutes which permit the STATE to purchase certain specified services, and other approved purchases for the STATE.
- 2. <u>CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE</u>: The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- 3. <u>LAWS AND REGULATIONS</u>: Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
- 4. <u>RECORDS ADMINISTRATION</u>: The CONTRACTOR shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the CONTRACTOR for costs authorized by this contract. These records shall be retained by the CONTRACTOR for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The CONTRACTOR agrees to allow STATE and Federal auditors, and STATE Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
- 5. <u>CONFLICT OF INTEREST</u>: CONTRACTOR represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, <u>Utah Code Annotated</u>, 1953, as amended.
- 6. CONTRACTOR, AN INDEPENDENT CONTRACTOR: The CONTRACTOR shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the STATE to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the STATE, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the CONTRACTOR by the STATE. The CONTRACTOR shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the STATE for these contract services. Persons employed by the STATE and acting under the direction of the STATE shall not be deemed to be employees or agents of the CONTRACTOR.
- 7. INDEMNITY CLAUSE: The CONTRACTOR agrees to indemnify, save harmless, and release the STATE OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the CONTRACTOR'S officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
- 8. EQUAL OPPORTUNITY CLAUSE: The CONTRACTOR agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the CONTRACTOR agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
- 9. <u>SEPARABILITY CLAUSE</u>: A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
- 10. <u>RENEGOTIATION OR MODIFICATIONS</u>: This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the parties hereto, and attached to the original signed copy of the contract.
- 11. <u>DEBARMENT</u>: The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.
- 12. TERMINATION: Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
- 13. <u>SALES TAX EXEMPTION</u>: The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
- 14. WARRANTY: The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
- 15. <u>PUBLIC INFORMATION:</u> Contractor agrees that the contract will be a public document, as far as distribution of copies, and Contractor gives the STATE express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation. (Revision date: Apr 24, 2002)

# ATTACHMENT B: SCOPE OF WORK EMERGENCY SNOW REMOVAL IN LITTLE COTTONWOOD CANYON

1. Contractor shall plow and remove snow and ice from the roadway on Utah SR 210 at the upper section of Little Cottonwood Canyon. This work shall be performed in emergency situations, as determined by the Utah Department of Transportation (UDOT) area supervisor.

## 2. <u>Minimum Contractor Furnished Equipment</u>

- 2.1 Furnish a ten (10) wheel dump truck equipped with a 7.5 yard sander and a hydraulic swing plow.
- 2.2 The equipment must be stored in the upper section of the canyon and in close proximity to salt storage.
- 2.3 Storage area for UDOT supplied materials shall be provided by the Contractor.
- 2.4 The vehicle shall be equipped with a radio capable of communicating with Alta Central, Salt Lake County Sheriff's Dept. and UDOT.
- 2.5 An avalanche transceiver shall be worn by the driver while in the canyon.

## 3. <u>UDOT Responsibilities</u>

UDOT will furnish salt and premix material delivered to the Contractor's storage area.

### 4. Operator Standards

- 4.1 The operator must have a Commercial Driver's License with class A endorsement.
- 4.2 The operator shall have demonstrated skills in operating the assigned equipment, experience in driving steep grades under ice and snow conditions, and be familiar with avalanche control operations in Little Cottonwood Canyon.

#### ATTACHMENT C: PRICING

### EMERGENCY SNOW REMOVAL, SR210, UPPER LITTLE COTTONWOOD CANYON

- 1. All Pricing, includes a qualified equipment operator.
- 2. Ten Wheel Dump Truck with 10 yard sander spreader and 12 foot snow blade @ \$93.00 per hour.
- 3. Wheel Loader with 12 yard snow bucket and 14 foot reversible blade @ \$150.00 per hour.
- 4. Idaho Norland snow blower mounted on a 5 yard front end loader @ \$200.00 per hour.
- 5. Annual pricing increases shall be for the percent (%) change in the Consumer Price Index, as reported by the Bureau of Labor Statistics, for the previous twelve (12) month period ending on August 31<sup>st</sup> of the current year.

#### ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

#### 1. QUANTITY OR AMOUNT ESTIMATES

Any mention of quantities has been estimated and shall not to be construed as a guarantee to purchase any service or specific amount.

#### 2. WAGES

The Contractor shall be responsible for all applicable company wages in accordance with the Federal, State and local laws and ordinances.

#### 3. **NOTICE**

The Contractor shall be on the road within 30 minutes of notification by UDOT. The Contractor shall be available for this response 24 hours per day, 7 days per week during the months that winter conditions occur.

#### 4. **INSURANCE**

The Contractor shall maintain, during the life of this contract, complete Owner's Protective Liability Insurance in the following minimum amounts:

Bodily Injury - \$1,000,000 per Person / \$1,000,000 per Occurrence

Property Damage - \$1,000,000 per Occurrence / \$1,000,000 Aggregate

#### 5. BASIS OF PAYMENT

The number of hours of operation for bid item of equipment will be paid for at the unit price bid, which price and payment shall be full compensation for all labor, tools, equipment and incidentals including providing and maintaining the various items of equipment, furnishing competent operators, and furnishing gas, oil and all incidentals necessary to keep the equipment operating satisfactorily for the work.

#### 6. **INVOICING**

THE CONTRACT NUMBER AND ORDER NUMBER MUST APPEAR ON ALL INVOICES, BILLS OF LADING, PACKAGES AND ALL CORRESPONDENCE RELATING TO EACH ORDER AND DELIVERY.

The Contractor shall submit invoices to the Utah Department of Transportation, Accounts Payable, 4501 South 2700 West, Salt Lake City, Utah 84119.

#### 7. **NON-ASSIGNMENT**

The Contractor shall not sublet, assign or transfer any part of this contract without prior written approval from the Procurement Supervisor or the Procurement Manager of Utah Department of Transportation. The provision of monies due under this contract shall not be assignable without

#### ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

prior written approval from the Procurement Supervisor or the Procurement Manager of the Utah Department of Transportation.

#### 8. NON-COMPETE CLAUSE

The Contractor represents its officers and employees are free to contract with the State and are not subject to restrictions by the terms of their present or past employment including, but not limited to an agreement not to compete for as a period of time unless disclosure has been made. Contractor must disclose to the State any possible conflicts, in writing, before the contract is signed and the State will evaluate whether to continue with contract execution. The State may elect to terminate a contract immediately with a Contractor who is subsequently determined to be subject to such restrictions without liability to the State. If the State elects to terminate as a contract for this reason, the State will supersede paragraph #12 in Attachment A - Standard Terms and Conditions and will not provide 90 day prior notice to the Contractor.





# State Division o Sole Sou

# Division of Purchasing Tracking

**#SS04063** 

Sole Source Procurement is an option only if a purchase requirement is reasonable available avai

ATTACH THIS COMPLETED FORM TO THE PURCHASE REQUISITION DP-1 WHEN SUBMITTING A REQUEST FOR SOLE SOURCE PURCHASE BY PURCHASE ORDER, BUT IF PURCHASE IS TO BE MADE BY AN AGENCY CONTRACT, SUBMIT THIS FORM FOR PRIOR APPROVAL BEFORE CONTRACT NEGOTIATIONS.

AGENCY RE	EQUESTING AUTHORIZATION: L	JDOT		
CONTACT F	PERSON: Paul Rottmann		PHONE NUMBER: 965-407	8
ITEM(S) TO	BE PURCHASED:	· · · · · · · · · · · · · · · · · · ·	<u> </u>	<u> </u>
	Snow and Ice Removal on SR210 wood Canyon.	at the top of	: تغفر	
APPROXIMA	ATE COST OF ITEM(S):	\$999,999.00		
RECOMMEN	NDED VENDOR OR CONTRACTO	OR: Snowbird Ski & Summer	Resort	<u> </u>
CONTACT F	PERSON: Jerry Giles	<del>ya da magazara a da mara da m</del>	PHONE NUMBER: 801-933	-2020
ADDRESS:	PO BOX 929000	CITY:Snowbird	ST:UT	ZIP: 84092-9000
	D#(TIN) or SOCIAL SECURITY #: E e 9 digits-numeric) (If SS#, must have		n Social Security card)	<del></del>
TYPE OF VE	ENDOR: (Check one)			
X 1-0	Corporation	☐ 3-Proprietorship/indiv	ridual 5-Government-ex	kempt
☐ 2-N	Medical Provider (all types)	4-Partnership	G-Other	
	ICE STATUS DETERMINED AS FO le source status of the one recomme Description of criteria			
Snowbird	Snowbird is the only source fo had a contract with them for the but would like to raise pricing faccept annual increases in the	ne previous three years. The for this new contract by the camount of the CPI for this	ney held their pricing for the e amount of the CPI. They a s new five year contract.	e full three years, are willing to
	A draft of the proposed contra	ct and a copy of the existing	ng contract are attached he	reto.
REQUESTED	BY: 8-	APPF - 27-03	Sthiar	SEP 1 7 2003
Agency Sign	PAUL ROTTMANN	Date Doug	glas G. Richins, Director	Date
	I NOE ROTTIMANA	All	glas G. Richins, Director Gion of Purchasing	2.